

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION

**WRIT PETITION NO.3357 OF 2021**

VISHAL  
SUBHASH  
PAREKAR

Dhundrya @ Dhansing Deda Bhilala (Pavara) ...Petitioner

vs.

The State of Maharashtra ...Respondent

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by VISHAL  
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Mr. Rupesh Jaiswal, for the Petitioner.

Mr. K. V. Saste, APP for the Respondent-State.

CORAM : **S.S. SHINDE &  
N.J. JAMADAR, JJ.**

DATE : **SEPTEMBER 28, 2021**  
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**ORAL JUDGMENT :** (Per N.J.Jamadar, J.)

1. Rule. Rule made returnable forthwith and, with the consent of the counsels for the parties, heard finally.

2. The petitioner who is convicted for the offences punishable under section 302 of Indian Penal Code and sentenced to suffer imprisonment for life in Sessions Case No. 01 of 2015, and incarcerated in Nashik Road Central Prison, Nashik has preferred this petition aggrieved by the condition No. 5 incorporated in the order dated 9<sup>th</sup> June, 2021, inter alia, directing him to furnish surety, who is a Government Servant, for release on emergency parole under Rule 19(1)(c)(ii) of the Maharashtra Prisons (Bombay Furlough and Parole) Rules, 1959 (the Rules, 1959).

3. By the aforesaid order dated 9<sup>th</sup> June, 2021 the petitioner has been ordered to be released on emergency parole upon furnishing cash security of Rs. 20,000/-, personal bond in the sum of Rs. 10,000/- and two sureties in the sum of Rs. 20,000/- each, one of whom shall be a Government servant.

4. Mr. Jaiswal, learned counsel for the petitioner submits that the aforesaid condition of furnishing a surety, who happens to be a Government Servant, is rather harsh and virtually defeats the petitioner's right to be released on emergency parole.

5. Mr. Saste, learned APP, on the other hand, would support the aforesaid condition. It was urged that in order to ensure that the prisoner returns back to prison, after period of parole is over, and maintain peace while he is released on parole, competent authority was justified in imposing the aforesaid condition, submitted Mr. Saste.

6. We have considered the rival submissions. In our view the insistence on furnishing a surety who is a Government servant may, in a given case, frustrate the very object of directing the release of the prisoner on emergency parole. The elements of poor financial

position and adverse social condition, which the long period of incarceration for a grave offence usually bring in cannot be lost sight of. Such a condition thus operates onerously.

7. Undoubtedly, in addition to a family member or relative, the prisoner must furnish an independent surety. However, to insist the surety must be a Government servant severely restricts the entitlement of a prisoner to be released on emergency parole.

8. Mr. Jaiswal, learned counsel for the petitioner submitted that the petitioner would furnish a surety who is an independent person having good conduct and credentials. This, in our view, would adequately address the concern of the respondent.

9. For the foregoing reasons, we are persuaded to allow the petition. Hence, the following order.

#### **ORDER**

- 1] The petition stands allowed.
- 2] Condition No. 5 of the impugned order dated 9<sup>th</sup> June, 2021 stands modified to the effect the petitioner shall furnish an independent surety having good conduct

instead of a Government servant and another surety who is a family member or relative.

3] The petitioner shall comply with rest of the conditions incorporated in the impugned order.

4] Rule made absolute to the aforesaid extenry.

**(N.J. JAMADAR, J.)**

**(S.S. SHINDE, J.)**